

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

UNITED STATES OF AMERICA)	
)	
v.)	Case No. 2:21-cr-00049-MHT
)	
WILLIAM RICHARD CARTER, JR.)	

MOTION FOR FORFEITURE MONEY JUDGMENT

Pursuant to 18 U.S.C. § 982(a)(2) and Rule 32.2(b)(2) of the Federal Rules of Criminal Procedure, the United States of America (“United States”) hereby moves for a Forfeiture Money Judgment against defendant William Richard Carter (“Defendant”) in the amount of \$21,000.00, representing the proceeds he obtained as the result of the offenses in violation of 18 U.S.C. §§ 371, 1343, and 1028A(a)(1) as charged in Counts 1, 21, 27, 31, 35, 125, and 126 of the Indictment. (Doc. 1).

As required by Federal Rule of Criminal Procedure 32.2(b)(4)(B), the United States requests that the Court include the forfeiture when orally pronouncing the sentence and in the written judgment. *See* Fed. R. Crim. P. 32.2(b)(4)(B) and *United States v. Kennedy*, 201 F.3d 1324, 1326 (11th Cir. 2000). The United States asks further that the Forfeiture Money Judgment become final as to Defendant at the time it is entered.

In support of its motion, the United States submits the following:

MEMORANDUM OF LAW

I. **Statement of Facts**

A. Allegations against Defendant:

1. On January 13, 2021, a 127-count Indictment was returned against Defendant and others charging Conspiracy, Wire Fraud, and Aggravated Identity Theft in violation

of 18 U.S.C. §§ 371, 1343, and 1028A(a)(1). (Doc. 1).

2. The Indictment contained forfeiture allegations putting Defendant on notice that if convicted of Conspiracy, Wire Fraud, or Aggravated Identity Theft, the United States would seek the forfeiture of all proceeds obtained directly or indirectly as a result of the said offenses.

B. Findings of Guilt:

3. On March 18, 2022, Defendant was convicted of Counts 1, 21, 27, 31, 35, 125, and 126 of the Indictment. (Doc. 302).

II. Applicable Law

The United States is entitled to a Forfeiture Money Judgment against Defendant pursuant to 18 U.S.C. § 982(a)(2) and Federal Rule of Criminal Procedure 32.2.

For cases in which a defendant no longer has the actual dollars or property traceable to proceeds in his possession, or the government cannot locate those assets, the obligation to forfeit simply takes the form of a forfeiture money judgment in favor of the United States. *See United States v. Padron*, 527 F.3d 1156, 1161-62 (11th Cir. 2008). Federal Rule of Criminal Procedure 32.2(b)(1)(A) provides that, where the government seeks a personal money judgment, the Court must determine the amount of money that the defendant will be ordered to pay. The court in calculating a forfeiture money judgment is free to consider all relevant conduct involving the same fraud scheme. *See United States v. Holland*, 722 F. App'x 919 (11th Cir. 2018).

Because the United States could not locate specific property constituting or derived from the proceeds Defendant received from the offenses in violation of 18 U.S.C. §§ 371, 1343, and 1028A(a)(1), it seeks a Forfeiture Money Judgment in the amount of \$21,000.00 against him pursuant to Federal Rule of Criminal Procedure 32.2(b)(2), representing the total of all proceeds he obtained from the Conspiracy, Wire Fraud, and Aggravated Identity Theft. If the Court finds

that Defendant obtained \$21,000.00 as a result of the Conspiracy, Wire Fraud, and Aggravated Identity Theft for which he was found guilty, then it is appropriate for the Court to enter a Forfeiture Money Judgment against him in that amount pursuant to Rule 32.2(b)(2).

III. Conclusion

For the reasons stated above, the United States requests that, pursuant to 18 U.S.C. § 982(a)(2) and Rule 32.2(b)(2) of the Federal Rules of Criminal Procedure, the Court enter a Forfeiture Money Judgment against Defendant in the amount of \$21,000.00.

The United States further requests that the Court retain jurisdiction to address any third-party claim that may be asserted in these proceedings, to enter any further order necessary for the forfeiture and disposition of such property, and to order any substitute assets forfeited to the United States up to the amount of the Forfeiture Money Judgment.

Respectfully submitted this 9th day of May, 2022.

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CERTIFICATE OF SERVICE

I hereby certify that on May 9, 2022, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all counsel of record.

Respectfully submitted,

/s/Eric M. Counts
ERIC M. COUNTS
Assistant United States Attorney